

**Letter of Findings: 01-20190950
Individual Income Tax
For the Tax Year 2017**

NOTICE: IC § 6-8.1-3-3.5 and IC § 4-22-7-7 require the publication of this document in the Indiana Register. This document provides the general public with information about the Department's official position concerning a specific set of facts and issues. This document is effective as of its date of publication and remains in effect until the date it is superseded or deleted by the publication of another document in the Indiana Register. The "Holding" section of this document is provided for the convenience of the reader and is not part of the analysis contained in this Letter of Findings.

HOLDING

Individual provided sufficient documentation to support her initially reported state and local tax withholding credits.

ISSUE

I. Individual Income Tax - Documentation.

Authority: IC § 6-8.1-5-1; *Indiana Dep't of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463 (Ind. 2012); *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480 (Ind. Tax Ct. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138 (Ind. Tax Ct. 2010); *Lafayette Square Amoco, Inc. v. Indiana Dep't of State Revenue*, 867 N.E.2d 289 (Ind. Tax Ct. 2007).

Taxpayer protests the Indiana individual income tax imposed for 2017 tax year.

STATEMENT OF FACTS

Taxpayer filed her 2017 Indiana income tax return, which showed an overpayment for the year. In February 2019, the Indiana Department of Revenue ("Department") reviewed this return and made an adjustment to Taxpayer's reported withholding credits based on the documentation received from Taxpayer. This adjustment resulted in additional Indiana tax due. The Department issued Taxpayer a proposed assessment for that base tax, plus penalty and interest. Taxpayer protested this assessment, opting for the Department to make its written decision based on the materials sent in with the protest. Therefore, no administrative hearing was held. This Letter of Findings is written based on the materials in the protest file. Further facts will be supplied as necessary.

I. Individual Income Tax - Documentation.

DISCUSSION

The Department found a discrepancy between Taxpayer's reported state and local tax withholding on her IT-40 return and the withholding reported on her Form 1099-R and W-2 Statement. The Department adjusted Taxpayer's return based on the 1099-R and W-2, resulting in additional tax due. The Department assessed Taxpayer for this additional tax, plus penalty and interest. Taxpayer claimed that her initially reported withholding was correct and protested the assessment.

As a threshold issue, it is the Taxpayer's responsibility to establish that the existing tax assessment is incorrect. As stated in IC § 6-8.1-5-1(c), "The notice of proposed assessment is prima facie evidence that the [D]epartment's claim for the unpaid tax is valid. The burden of proving that the proposed assessment is wrong rests with the person against whom the proposed assessment is made." *Indiana Dept. of State Revenue v. Rent-A-Center East, Inc.*, 963 N.E.2d 463, 466 (Ind. 2012); *Lafayette Square Amoco, Inc. v. Indiana Dept. of State Revenue*, 867 N.E.2d 289, 292 (Ind. Tax Ct. 2007). Consequently, a taxpayer is required to provide documentation explaining and supporting his or her challenge that the Department's position is wrong. Poorly developed and non-cogent arguments are subject to waiver. *Wendt LLP v. Indiana Dep't of State Revenue*, 977 N.E.2d 480, 485 n.9 (Ind. Tax Ct. 2012); *Scopelite v. Indiana Dep't of Local Gov't Fin.*, 939 N.E.2d 1138, 1145 (Ind. Tax Ct. 2010).

Taxpayer provided her Form 1099-R and two W-2 Statements with her protest. The second W-2, which was not included with her initial filing, shows state and local tax withholding that was not included in the Department's

adjustment. Based on both W-2 Statements and her Form 1099-R, Taxpayer's originally filed return shows the correct amount of tax withheld and claims the correct amount of credit for this withholding. Taxpayer's evidence is sufficient to meet her burden under IC § 6-8.1-5-1(c). Therefore, Taxpayer's protest is sustained in full.

FINDING

Taxpayer's protest is sustained.

September 30, 2019

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